

**JOINT LEGISLATIVE SUNSET
REVIEW COMMITTEE FINDINGS AND
RECOMMENDATIONS**

**Review and Evaluation of the
Board of Accountancy**

**Report to the
Department of Consumer Affairs**

FEBRUARY 1996

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SUMMARY OF RECOMMENDATIONS AND FINDINGS

ISSUE #1: Should the Board of Accountancy be continued as a separate agency, merged with another board, or sunsetted and have all of its duties, powers and functions turned over to the Department of Consumer Affairs?

RECOMMENDATION:

The board should be continued as a separate agency but the size of the board should be increased from 12 to 13, with 7 public members and 6 professional members. The sunset date should be extended for four years until the next sunset review.

FINDINGS:

A. General Responsibilities, Duties and Composition of the Board

1. *The board has specified its mission and goals.*
2. *The board has been involved in strategic planning, basic self-assessment, quality management practices, and reengineering efforts to improve the board's overall effectiveness and efficiency.*
3. *The board has not established professional standards for its licensees, nor specific codes of professional ethics or conduct, but there are other organizations and private entities which provide "generally accepted accounting and auditing standards" for the profession, and a "Code of Professional Conduct." The board does provide some rules and standards of conduct within its regulations.*
4. *It has been argued that the board may have exceeded its legal authority by attempting to prevent non-CPA's from using the terms "accountant" and "accountancy," and by adopting "underground regulations."*
5. *It has been argued that the board has granted or delegated inappropriate authority to its committees.*
6. *The board's composition does not reflect the current trend to provide a level of public membership to ensure that the board's actions reflect the interests of the public and not just those of the profession.*

B. Funding and Organization of the Board and Staff

- 1. The board has spent, on average, about 56 percent of its budget on enforcement activity over the past four years. Other boards have spent, on average, about 66 percent.*
- 2. The organizational breakdown and workload of the board and staff seem to provide the most efficient expenditure of funds. However, a recent reengineering study found a high ratio of support staff to CPA investigative staff, and recommended that investigative staff be more fully utilized [or increased].*
- 3. The board currently has ten months of budget reserve and is unintentionally out of compliance with the law which requires that the board only maintain three-months of budget reserve. The board is attempting to deal with this problem by reducing fees.*

C. Licensing and Application Process

- 1. The board's practice of requiring 10/20 semester units is inconsistent with the statutory and regulatory requirement of 45 semester units under Section 5081.1 of the Act. However, there is a 10/20 semester units requirement under the experience requirement in Section 5084 of the Act. The board indicates that it will seek legislation to rectify this inconsistency.*
- 2. The experience requirement, as it pertains to the "audit experience" or "attest function," has become a controversial issue and the board has not properly evaluated the need for the continuation of this requirement.*
- 3. The board provides reciprocity for those applicants already licensed in another state but does not recognize international reciprocity.*

D. Continuing Education and Review of Professional Competence

- 1. The board has a unique "Continuing Competency Program" which was established in 1989. It includes two primary areas: Continuing Education and a Report Quality Monitoring Program.*

E. Examination Process

- 1. The exam given by the board has a very low passage rate.*
- 2. The examination requirement appears to be an artificial barrier to entry into this profession and may be testing more than the minimum standards of competence necessary for an entry-level CPA.*

F. Complaint Process

- 1. Almost half of the complaints received by the board are related to unlicensed practice.*
- 2. In a recent reengineering study conducted by the board, there were significant delays found in the complaint process.*

G. Enforcement Process

- 1. It has been argued that the board lacks an aggressive enforcement program and maintains one of the most complex, multi-layered enforcement programs as compared to other occupational licensing agencies.*

Unlicensed Activity

- 1. The board makes very little use of its “cite and fine” authority against unlicensed practice because of the success it has in issuing “cease and desist” letters. The board has made some use of its “cite and fine” authority against licensees.*
- 2. The recent BPR project found excessive follow-up with respect to compliance with unlicensed program decisions.*

Investigations

- 1. There are significant delays in the investigation of cases and investigative and/or administrative staff are not properly utilized.*

Disciplinary Action

- 1. The board maintains a two-tiered disciplinary process. The “Major Case Program” is an extremely complex and costly process.*
- 2. Considering the number of licensees, number of complaints and investigations by the board, there has been little action taken against licensees over the past four years for incompetence or other violations of the licensing act.*
- 3. The board does make some use of its restitution authority.*

Disciplinary Case Aging Data

- 1. There have been delays in completing enforcement cases but the board has recently developed “baseline performance measures” to improve its processing of cases.*

Enforcement Costs

1. *The board's expenditure for all enforcement costs is below the average for other consumer boards.*
2. *The board is currently unable to calculate the average costs of investigation and prosecution of cases. However, it is attempting to capture this information in the future.*
3. *The board seeks cost recovery pursuant to authority granted under Section 5107 of the Business and Professions Code.*

H. Efforts to Improve the Current Regulatory Process

Operational Improvements

1. *The board's administrative and regulatory changes have made some improvements in its operations and increased its ability to operate more in the public interest.*

Legislative Efforts

1. *Legislative efforts by the board have made some improvements in the current regulatory program.*

Recommended Improvements

1. *The board's proposed administrative, regulatory and legislative changes address some of the basic problems which are identified in this report. However, some are not reflective of the findings made by the JLSRC.*

ISSUE #2: Should the State continue with the licensing and regulation of the practice of public accounting, and if not, should some other alternative form of regulation be recommended?
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RECOMMENDATION:

The State should continue with the licensing and regulation of the practice of accounting.

FINDINGS:

1. *There is sufficient evidence that the unregulated practice of public accounting could cause significant public harm.*

2. *There appears to be significant public demand and an expectation by the public for the regulation and licensing of the practice of public accountancy.*
3. *The current regulatory program appears to provide evidence that severe harm could result if the public accountancy profession was deregulated.*
4. *Other mechanisms to protect the public from harm appear to be inadequate if the practice of public accountancy was deregulated.*
5. *While a number of other occupations overlap some of the functions performed by licensees of the board, these other occupations are not licensed to perform the full range of public accounting services which includes audits and attestation. In addition, these other occupations are not governed by the professional standards and codes of conduct that characterize licensed accounting professionals.*
6. *There are other public agencies which provide some oversight of the services provided by accountants, but none of these agencies has authority to license or discipline practitioners of public accounting.*
7. *All 54 states and jurisdictions regulate accounting professionals.*
8. *There does not appear to be any substantial savings to the consumer (agencies or businesses) if the practice of public accountancy was deregulated, and in fact, deregulation could adversely impact the business climate in California.*
9. *There does not appear to be any viable alternative to the current regulatory program which would provide the same degree or increased consumer protection.*

<p>ISSUE #3: What changes should be made to the current regulatory program to improve its overall effectiveness and efficiency so that it may operate more in the public interest?</p>
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RECOMMENDATIONS:

1. *The board should implement all recommendations contained in its report submitted to the JLSRC, insofar as they are consistent with the following recommendations.*
2. *The board should implement all recommendations contained in its “Report on the Business Process Reengineering Activities of the Board’s Enforcement Program,” insofar as they are consistent with the following recommendations.*
3. *The board should adopt professional standards for its licensees, and its own “Code of Professional Conduct,” and review and revise its regulations to clarify what conduct may violate the Accountancy Act, or what may be “ethically” required by a CPA or PA.*

- 4. The board should amend Rule 2 of its regulations to clarify under what circumstances a person may use the terms “accountant” or “accounting.”*
- 5. The board should spend more than 56 percent of its budget on the enforcement activity, and take a more proactive role in its enforcement program.*
- 6. The board should increase the number of CPA investigative staff and decrease the number of administrative staff under its enforcement program.*
- 7. The board should reduce fees as necessary to bring its budget reserve into compliance with the law.*
- 8. The board should modify Section 5084 of the Business and Professions Code so it is consistent with Section 5081.1.*
- 9. Section 5083 of the Business and Professions Code should be amended to require that each applicant demonstrate to the board satisfactory experience of 500 hours in the attest function, which enables the applicant to demonstrate that they have an understanding of the requirements of planning and constructing an audit with minimum supervision which results in full disclosure financial statements.*
- 10. The size and composition of the Qualifications [Examining] Committee should be changed pursuant to the law which goes into effect on July 1, 1997. Section 5023 of the Business and Professions Code which authorizes the Examining Committee should sunset on July 1, 1998.*
- 11. The board should clarify what enforcement action will be taken if a decision is reached that mandated Continuing Education has failed to improve competency.*
- 12. There should be legislative intent language (not mandatory) that the board will work toward implementation of a national examination which will be developed and administered by a “non-trade” national organization such as the National Association of State Boards of Accountancy.*
- 13. The board should make more use of its “cite and fine” authority against unlicensed practice.*
- 14. The size and composition of the Administrative Committee should be changed pursuant to the law which goes into effect on July 1, 1997. Section 5020 of the Business and Professions Code, which authorizes the Administrative Committee, should sunset on July 1, 1998. In the meantime, the Administrative Committee should act in an advisory capacity only, and primary responsibility for review and management of investigations should be performed by professional investigative staff.*
- 15. The “Major Case [Enforcement] Program” of the board should be analyzed more closely to determine the successes (or failures) of the program. The board should*

conduct a cost-benefit analysis and a reengineering study, and develop baseline performance measures.

16. *The board should also assure that confidentiality is maintained in the investigation and prosecution of “major cases.”*

17. *The board should make more use of its restitution authority.*

18. *The board should work with DCA to develop a better method for capturing cost data so they can calculate costs of investigation and prosecution of individual cases.*

OVERALL APPROACH TO THE SUNSET REVIEW

CURRENT APPROACH TO REVIEW

Legislation enacted in 1994 (Chapter 908/94, SB 2036, McCorquodale), put in place a procedure and schedule for the Legislature to assess the effectiveness of, or need for, state involvement in the 32 occupational areas currently regulated by various boards. ("Board," as used in this document, refers to a "commission," "committee," "examining committee," or "organization" that has the ultimate responsibility for administration of a regulatory program as required under provisions of the Business and Professions Code.)

Pursuant to this new law, independent boards become inoperative, according to a specified schedule, on July 1 of either 1997, 1998, or 1999. The respective statutes are then repealed six months later, on January 1 of either 1998, 1999, or 2000. Thus, the boards and their regulatory authorities "sunset," unless the Legislature passes laws to either reinstate the board or extend its sunset date.

Chapter 908/94 creates the Joint Legislative Sunset Review Committee (JLSRC) to review and analyze the effectiveness of and need for each of the boards. Each board, with the assistance of the Department of Consumer Affairs (DCA), is required to submit to the JLSRC -- 15 months before January 1, of the year its authorizing legislation becomes operative -- an analysis of its regulatory functions and reasons to continue regulatory activities. (Reports from the boards scheduled to sunset in 1997 were, therefore, due by October 1, 1995.)

The JLSRC must hold public hearings during the interim study recess to solicit testimony from the director of Consumer Affairs, the boards scheduled to sunset, the public, and the regulated industries/occupations. During those hearings, the committee members must evaluate and determine whether a board or regulatory program has demonstrated a public need for the continued existence of the board or regulatory program and for the degree of regulation based on the factors and minimum standards of performance listed below:

- (1) Whether regulation by the board is necessary to protect the public health, safety, and welfare.
- (2) Whether the basis or facts that necessitated the initial licensing or regulation of a practice or profession have changed.
- (3) Whether other conditions have arisen that would warrant increased, decreased, or the same degree of regulation.
- (4) If regulation of the profession or practice is necessary, whether existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms, and whether the board rules enhance the public interest and are within the scope of legislative intent.

- (5) Whether the board operates and enforces its regulatory responsibilities in the public interest and whether its regulatory mission is impeded or enhanced by existing statutes, regulations, policies, practices, or any other circumstances, including budgetary, resource, and personal matters.
- (6) Whether an analysis of board operations indicates that the board performs its statutory duties efficiently and effectively.
- (7) Whether the composition of the board adequately represents the public interest and whether the board encourages public participation in its decisions rather than participation only by the industry and individuals it regulates.
- (8) Whether the board and its laws or regulations stimulate or restrict competition, and the extent of the economic impact the board's regulatory practices have on the state's business and technological growth.
- (9) Whether complaint, investigation, powers to intervene, and disciplinary procedures adequately protect the public and whether final dispositions of complaints, investigations, restraining orders, and disciplinary actions are in the public interest; or if it is, instead, self-serving to the profession, industry or individuals being regulated by the board.
- (10) Whether the scope of practice of the regulated profession or occupation contributes to the highest utilization of personnel and whether entry requirements encourage affirmative action.
- (11) Whether administrative and statutory changes are necessary to improve board operations to enhance the public interest.

The JLSRC must also consider alternatives to placing responsibilities and jurisdiction of the board under the Department of Consumer Affairs.

The JLSRC must then report its findings and recommendations to the DCA for its review. The DCA must then prepare a final report including its own findings and recommendations and those of JLSRC. This final report must then be submitted to the Legislature within 60 days, and shall include whether each board scheduled for repeal should be terminated, continued, or re-established, and whether its functions should be revised. If the JLSRC or DCA deems it advisable, the report may include proposed bills to carry out these recommendations.

REQUEST FOR INFORMATION AND BOARD REPORT

As indicated, all boards are required to prepare an analysis and submit a report to the JLSRC "no later than one year plus 90 days prior to the January 1st of the year during which that board shall become inoperative." (October 1, 1995, was the deadline for those boards which sunset in 1997.)

The analysis and report must include, at a minimum, all of the following:

- (a) A comprehensive statement of the board's mission, goals, objectives and legal jurisdiction in protecting the health, safety, and welfare of the public.

- (b) The board's enforcement priorities, complaint and enforcement data, budget expenditures with average- and median-costs per case, and case aging data specific to post and pre-accusation cases at the Attorney General's office.
- (c) The board's fund conditions, sources of revenue, and expenditure categories of the last four fiscal years by program component.
- (d) The board's description of its licensing process including the time and costs required to implement and administer its licensing examination, ownership of the license examination, and passage rate and areas of examination.
- (e) The board's initiation of legislative efforts, budget change proposals, and other initiatives it has taken to improve its legislative mandate.

In an attempt to reconcile this requirement for information, along with those considerations and factors which the JLSRC must make during its deliberations, a request for information was prepared by JLSRC staff and sent to all boards on July 3, 1995.

The request asked a number of questions about the board's operations and programs, about the continued need to regulate the particular occupation, and about the efforts which the board has made, or should make, to improve its overall efficiency and effectiveness. There was also a specific request for information dealing with the board's funding, licensing, examination, complaint and enforcement process for the past four years.

Staff then continued to meet with boards, as needed, to assist them in compiling this information and completing the report.

The report submitted by each board was broken down into three parts. The first part, provided background information dealing with each aspect of the board's current regulatory program. This included the board's powers, duties and responsibilities, its funding and organization, the licensing, examination, continuing education, and enforcement activities of the board for the past four years.

The second part of the report, addressed the issue of whether there is still a need to regulate this particular occupation. The questions addressed by the board were basically those which are asked during any "sunrise review" process, i.e., the current process used by the Legislature to evaluate the need for regulation.

The third part of the report, discusses any regulatory or legislative efforts the board has made, or are needed, to improve its current operation and protection of the consumer.

There are some appendices which were included as part of their report. There are also appendices (attachments) which, because of their length, or because they were not essential to the overall information contained in the original report, were not provided with the report. They were, however, available to members of the JLSRC upon request.

JLSRC REPORT OF FINDINGS AND RECOMMENDATIONS

The JLSRC must provide to DCA a report of its findings and recommendations after hearings are completed. This document has been prepared in an attempt to meet that mandate.

The findings and recommendations in this report are based on information and testimony received during the hearings conducted by the JLSRC on November 27th, 28th and December 5th, 1995. It also reflects information which was provided in the board's report, information provided by the Department of Consumer Affairs, a review of the current literature dealing with occupational licensing issues, and a comparative analysis of occupational licensing in other states performed by the Senate Office of Research.

The document begins with a short summary of the current regulatory program and discusses the creation of the licensing act, the board's budget, revenue and fees collected, an overview of licensing activity and the required examination, and disciplinary/enforcement actions.

Part one, provides an overall evaluation of the board's operations and programs. This section includes everything from the general responsibilities and duties of the board, to the licensing, examination and enforcement process. There are findings made about each function and activity of the board.

Part two of this document, is a review of the need to regulate this particular occupation. The issues are those which are addressed during the current "sunrise review" process, and those which must be considered by the JLSRC under the current law.

SUMMARY OF CURRENT REGULATION

Background

- The first Board of Accountancy convened in San Francisco in 1901. The original law was a title act and prohibited anyone from falsely claiming to be a certified accountant licensed by the Board. In 1945, the Accountancy Act was substantially revised and the practice of public accounting was defined.
- The board consists of 12 members. Seven members must be Certified Public Accountants (CPAs), one must be a Public Accountant (PA), and four must be public members. The Governor appoints two of the public members and the eight licensee members. The Senate Rules Committee and the Speaker of the Assembly each appoint a public member. When the Senate Business and Professions Subcommittee on the Effectiveness and Efficiency of Boards and Commissions met two years ago to review this board, it was recommended that the board size be reduced. As of July 1, 1997, per Chapter 599, Statutes 1995, the board size will be reduced by two CPAs down to 10 members.
- The board currently regulates over 62,000 licensees, the largest group of accounting professionals in the nation, including individuals, partnerships, and corporations. The board licenses approximately 54,700 Certified Public Accountants, 1700 Public Accountants, 1200 CPA Partnerships, 7 PA Partnerships, and 2800 Corporations.
- A “Certified Public Accountant” is a person who has met the requirements of California law and has been issued a license to practice public accounting by the board. A “Public Accountant” is a person who has received a certificate of public accounting from the board and who holds a valid license to practice. In California, shortly after World War II, this certificate was awarded to individuals who demonstrated experience in public accounting and had a certain educational background. The last PA license was issued in 1968, and as these particular licenses expire, California eventually will no longer have licensees with this designation.
- As accounting practitioners, CPAs and PAs are proprietors, partners, shareholders, or staff employees of CPA firms. They provide professional services to individuals, private and publicly-held companies, financial institutions, nonprofit organizations, and local, state and federal government entities. CPAs also are employed in business and industry, in government, and in education. The CPA and PA are unique in that in California only a professional holding this license can perform “attestation”, including audits and reviews pursuant to the Act. (The attest is a formal statement by an independent auditor, after thorough examination and consideration, as to whether financial statements fairly present financial position and operating results.) **[The**

board is recommending that the attest function be dropped as an experience requirement under the Act.]

Budget

- The board's budget for the current fiscal year (FY 1995/96) is \$9,591,000. (Projected expenditures for FY 1996/97 are \$9,756,820.) In FY 1994/95, the board's budget appropriation was \$9,162,000, of which \$5,095,135 was the total expenditure for all enforcement costs (56% of the total expenditures). About 38% of the enforcement budget for FY 1994/95 was spent on "external-professional and consulting services", 23% on personal services, 15% on operating expenses, 17% on the Attorney General and OAH, and 7% on witness fees. The board has spent, on average, about 54% of its budget for enforcement activity over the past four years. The board derives its revenues entirely from licensees, and is a special fund agency. Anticipated revenues for FY 1995/96 are \$8,087,000, and for FY 1996/97 are \$7,989,000. The board was authorized for 81.1 staff positions in FY 1995/96.
- Board and committee members are entitled to a *per diem* of \$100 per day and are reimbursed for actual and necessary expenses incurred while conducting board business. In calendar year 1994, the board conducted nine formal meetings. Board members have received a total of \$62,000 in *per diem* and travel expenses for FY 1994/95. (It should be noted, that all claims have not been submitted for FY 1994/95.) A total of \$70,330 in *per diem* and travel expenses was received for FY 1993/94, a total of \$39,132 for FY 1992/93, and a total of \$54,301 for FY 1991/92.
[Expenditures for *per diem* and travel of "committee members" is unknown.]

Fees

- Licenses must be renewed every two years. The board's fee structure is currently: Exam Application Processing Fee - \$60; Fee for each exam part - \$25 (or \$100 for all four parts); License Application Processing Fee - \$200 (for partnerships or corporations - \$150); Initial License Fee - \$175; Renewal Fee - \$175; Delinquency Fee for late renewal - \$87.50. **[On April 1, 1995, the board lowered its license renewal fee from \$200 to \$175, and its delinquent renewal fee \$100 to \$87.50. As of July 1, 1996, the board will again lower the renewal fee from \$175 to \$100, and the delinquency fee from \$87.50 to \$50.00. The objective of this fee reduction is to lower the board's reserve and stabilize it at approximately three months of authorized expenditures.]**

Education and Experience Requirements

- An applicant for admission to the examination for a certified public accountant certificate must comply with one of the following:
 - 1) Graduation from an acceptable school or university with a major in accounting or related subjects requiring a minimum of 10 semester hours of accounting and 20 semester units of business-related subjects (for a total of 30 semester hours). If the

applicant had a non-accounting major, then must present evidence of study substantially the equivalent of accounting major. 2) Successfully completed a two-year course of study at college level, or received an associate degree from a junior college, and that has studied accounting, commercial law, economics, finance and related business administration subjects for a period of at least four years. 3) Show to the satisfaction of the board that he or she has the equivalent of educational qualifications as required above, or pass a preliminary written examination and have completed a minimum of 10 semester hours in accounting subjects. 4) Must be a registered public accountant.

- The experience requirement is four years, with one year experience credit for a bachelor's degree or if a registered public accountant, and another one year experience credit if graduated from college with 30 or more semester hours of study in accounting, commercial law, economics and finance. The practical experience must include experience in a variety of auditing procedures and techniques, in preparation of audit working papers, in planning of the program of audit work, in preparation of written explanations and comments on the findings of an examination and on the content of accounting records, and in preparation and analysis of financial statements.
- The majority of applicants gain their experience as regular paid employees of a company, working on a full-time , part-time, or *per diem* basis. On occasion, some applicants may work on an intern or a volunteer basis in order to gain the necessary experience. Their supervisors must hold current licenses. Although there is no prohibition against charging for supervision, it is not customary in this profession.
- Applicants already licensed in another state have temporary practice rights in California for up to 120 days upon receipt of a certification from the licensure state.
- Although education and experience requirements vary widely from state to state, available information indicates that California's requirements are comparable to other states. All states and jurisdictions except two, Maryland and Florida, have an experience requirement.

Examinations

- Each applicant must complete the "California Ethics Examination" prior to licensure. This is a self-study Code of Professional Conduct test administered by the California Society of Certified Public Accountants.
- Applicants for a Certified Public Accountant license are also required to pass a written nationally standardized examination, titled the "Uniform CPA Examination." The examination is written and graded by the Board of Examiners of the American Institute of Certified Public Accountants (AICPA), a professional organization of

CPAs consisting of members from industry, government, and academia throughout the country. The AICPA contracts with 54 separate states and jurisdictions to provide and grade the examination. Validation of the exam is also conducted by AICPA.

- The CPA examination is administered over a two-day period on the same dates in May and November each year throughout the country. The examination is divided in four sections: Business Law & Professional Responsibilities, Auditing (Audit), Accounting & Reporting - Taxation, Managerial, and Governmental and not-for-Profit Organizations, and Financial Accounting & Reporting - Business Enterprises. In addition to multiple-choice questions, written essay responses are also required in particular sections. Writing skills are assessed using the following criteria: coherent organization, conciseness, clarity, use of standard English, responsiveness to the requirements of the question, and appropriateness for the reader.
- After the examination is completed, the AICPA Board of Examiners recommends the passing grade, which is scaled to a grade of 75, to each jurisdiction (state board). It is up to the individual jurisdiction whether to use the advisory passing grade or to set its own. The board has adopted the national standard by regulation and has set the pass point at 75 percent.
- The board grants “conditional status” to those candidates who receive a passing grade of 75 percent in two or more sections in a single examination sitting. Candidates who are granted conditional status have six consecutive examination periods in which to pass the remaining sections. If they do not, they must retake the entire examination.
- Each year in California, approximately 15,000 candidates sit for the CPA examination at one of four regional sites (Sacramento, San Francisco, Pomona, San Diego). In FY 1994/95, the board’s staff approved and scheduled 16,819 candidates for the examination. A total of 7,455 candidates sat for the November 1994 exam; 6,780 sat for the May 1995 exam -- a total of 14,235. Because of the difficulty in passing all sections of the examination, most candidates only take two sections of the examination during their first sitting. This way they are assured of receiving “conditional status” to take the other sections of the exam, rather than having to take the entire exam again.

1.

EVALUATION OF BOARD'S OPERATIONS AND PROGRAMS

ISSUE: Should the Board of Accountancy be continued as a separate agency, merged with another board, or sunsetted and have all of its duties, powers and functions turned over to the Department of Consumer Affairs?

RECOMMENDATION:

The board should be continued as a separate agency, but the size of the board should be increased from 12 to 13, with 7 public members and 6 professional members. The sunset date should be extended for four years until the next sunset review.

FINDINGS:

A. General Responsibilities, Duties and Composition of the Board

1. *The board has specified its mission and goals.*

- The mission of the State Board of Accountancy is to protect the public welfare by ensuring that only qualified persons are licensed and that appropriate standards of competency and practice are established and enforced.
- It is the vision of the board to become the premier regulatory agency that operates with maximum efficiency, fosters continuous quality improvement, and provides exemplary consumer protection while recognizing the changing consumer demographics and nature of services provided by licensed professionals.
- The board has outlined its goals and objectives in four major areas of importance: licensing, examining, enforcement, and public awareness.

2. *The board has been involved in strategic planning, basic self-assessment, quality management practices, and reengineering efforts to improve the board's overall effectiveness and efficiency.*

- In 1993, the board enlisted the assistance of a consulting firm to assist in the development of a strategic plan. The process was completed successfully in May

1993. Staff then created an implementation plan with established performance measures and incorporated the basic concepts and tenets of Total Quality Management. A key element of implementing the strategic plan was the establishment of a Long Range Planning Committee to assist the board in establishing its goals and objectives.

- In July 1995, the board completed a performance-based measure baseline report specific to the Enforcement Program. The board continues to seek new means of both improving its performance and providing quality service. Currently, the board is focusing on strategic planning for each aspect of the Enforcement Program and will be implementing the strategy through reengineering the Enforcement Program.
- The board has engaged a consulting firm to train staff in the skills necessary to analyze operations effectively, and to use that analysis in forming and implementing a plan which assures that the products generated by this process meet board objectives. A comprehensive report will be provided to the board.

3. The board has not established professional standards for its licensees, nor specific codes of professional ethics or conduct, but there are other organizations and private entities which provide “generally accepted accounting and auditing standards” for the profession, and a “Code of Professional Conduct.” The board does provide some rules and standards of conduct within its regulations.

- A Code of Professional Conduct, “generally accepted accounting principles” (GAAP) and “generally accepted auditing standards” (GAAS), have been established by national and state professional organizations and entities including, but not limited to, the American Institute of Certified Public Accountants (AICPA), the AICPA Auditing Standards Board (ASB), the Government Accounting Standards Board (GASB) and the Financial Accounting Standards Board (FASB). The pronouncements and professional standards established by these private entities provide the framework for all aspects of public accounting services.
- The board points out that the AICPA, ASB, GASB and FASB are private institutions which set standards but have no powers to regulate the profession. “In contrast, California’s Accountancy Act gives the Board of Accountancy statutory authority to regulate the public accounting profession.” This is an interesting comment by the board, in that no formal professional standards or code of ethics have been adopted by the board. The board has certain standards of conduct which are within its regulations, but it is not always clear what may amount to a violation of the Act or what is “ethically” required by the CPA or PA under its regulations.
- The board does, however, require each applicant to complete a Professional Ethics Exam in order to meet the board’s requirement for licensure. A passing grade of 90 percent or better is required. A self-study Code of Professional Conduct is provided by the California Society of Certified Public Accountants.

4. *It has been argued that the board may have exceeded its legal authority by attempting to prevent non-CPA's from using the terms "accountant" and "accountancy," and by adopting "underground regulations."*

- The board recently began to enforce section 2, Title 16 of the California Code of Regulations, which in effect prohibits anyone but a CPA from using the unmodified terms "accountant" or "accountancy" to describe him/herself, for offered services. The board claimed that consumers are confused by a non-CPA's use of these terms, and that many consumers believe that someone holding him/herself out as an "accountant" must be licensed by the state. Others (including non-CPA accountants and their professional associations) argued that the CPA-controlled board is attempting to capture the use of a generic term to prevent the competition from truthfully and effectively advertising in telephone directories and other media, in violation of non-CPAs' first amendment commercial speech rights and due process rights. The issue was litigated for five years, culminating in the California Supreme Court's decision in *Bonnie Moore v. State Board of Accountancy*, 2 Cal. 4th 999 (1992), *cert. denied*, ___U.S.___ (Feb. 22, 1993). The Court ruled that the Board must allow non-CPA accountants to use the terms "accountant" and "accountancy" in their advertising if those terms are accompanied with a disclaimer stating that "the practitioner is not licensed, or that the services offered do not require a license."
- The Center for Public Interest Law (CPIL) argues that, because the Supreme Court found Rule 2 to be constitutionally defective, the board should either repeal or amend this regulation. The board argues, that the legal case validated the regulatory scheme enforced by the board prohibiting the unmodified use of the terms "accountant" or "accounting" by unlicensed persons [unless a disclaimer is used], and received legal advice from the Attorney General's Office in October 1994, that they did not have to revise Rule 2. However, for the legal authority of the board to be clear under these circumstances, it is probably advisable that the board amend Rule 2 to include the disclaimer provision of the court.
- CPIL has also accused the board of being involved in "underground rule-making" (the enforcement of a policy or standard of general application without adopting it through the rule-making procedures of the Administrative Procedure Act), when it referenced a requirement in one of its application forms, that all applicants must submit proof of at least 500 hours of qualifying experience in the "attest function" or in "audit experience." The board argues that the 500 hours of audit experience is a suggested guideline, not an absolute requirement, and that the 500 hours is not stipulated in statute or regulation.
- The board provided a historical overview of the origin of the requirement for 500 hours of audit experience. At one point, the board held a hearing on this issue and was prepared to amend Rule 11.5 to adopt this requirement. However, the board decided it wanted a more flexible standard for the audit experience and decided to

reference the 500 hours instead in one of the forms provided to applicants to be used as a guideline. The board now argues for doing away with any attest or audit experience requirement, which would make this issue moot, but CPIL argues for the continuance of some sort of experience requirement. [The need for the experience requirement, or its clarification, is discussed further in this report.]

5. It has been argued that the board has granted or delegated inappropriate authority to its committees.

- The board has a unique committee structure to facilitate the performance of its duties. Current law authorizes the creation of two committees, the Examining Committee (which the board calls the Qualifications Committee and uses to review licensure applications), the Continuing Education Committee, and “other committees. . . for the purpose of making recommendations on such matters as may be specified by the board.” One committee, the Administrative Committee (AC), is specifically mandated by statute to receive and investigate complaints and to initiate and conduct investigations and hearings. It allows from 13 to 17 members to serve on this committee. Currently 17 members serve on this committee, all of whom are non-board member private practitioners.
- The Senate Subcommittee on the Effectiveness and Efficiency of Boards and Commissions had some concerns with the overall power and size of these committees, and made specific recommendations about changing the composition and authority of these committees. Legislation was then passed to implement some of these recommended changes. Effective July 1, 1997, per Chapter 1273, Statutes of 1994, the board may establish an Administrative Committee, rather than being required to appoint one. The new AC will be composed of nine members, six of whom shall be CPAs, one shall be a PA, and two shall be board members, one of whom must be a public member. The composition and size of the other committees of the board were also changed. This includes the Examining Committee and the Continuing Education Committee.
- CPIL argues that the use of the “Qualifications Committee” and the “Administrative Committee” is an excessive, and possibly unlawful, delegation of state governmental police power to private parties. The committees do not consist of appointed board members or employed board staff. They consist of private-practitioner CPAs who are reading the licensure applications of their future competitors or present colleagues, or reviewing a disciplinary complaint against their colleague. “Such intimate participation of private parties in two of the fundamental police power functions of an occupational licensing agency -- licensing and enforcement -- was outlawed centuries ago with the abolition of professional guilds.” CPIL goes on to state, that these committees do not simply make recommendations [as stipulated in statute], they make decisions which are not reviewed or ratified in any way by the board or its staff.

This long-standing conduct by the board's committees is unconstitutional as an excessive delegation of governmental power to private parties. CPIL recommends repeal of the statutes creating these committees.

- The board is recommending to eliminate both the Qualifications [Examining] Committee (if the audit experience requirement is eliminated) and the Continuing Education Committee. However, it does not want to eliminate the Administrative Committee, deciding instead to remind the Committee that it is only an advisory committee and to make several changes in the structure and function of the Committee. [The need for this committee is discussed further in this report.]

6. The board's composition does not reflect the current trend to provide a level of public membership to ensure that the board's actions reflect the interests of the public and not just those of the profession.

- The ratio of professional to public members on the Board of Accountancy is 8 to 4. (In 1994, and again in 1995, legislation was passed which required the composition of the board be changed to 6 professional members and 4 public members.) It was argued that this was more consistent with non-health related boards and that changing the composition of the board would provide a more balanced structure to the board, as a first step in dealing with some of the problems outlined by the Senate Subcommittee on the Effectiveness and Efficiency in State Boards and Commissions. As stated by the Subcommittee, "the Board may be able to focus more on its enforcement activities and less on protecting the interests of the profession it regulates. A smaller Board may also function more efficiently."
- There have even been strong arguments made that consumer boards should consist of a majority of public members. It is argued that individuals not affiliated with a profession are more likely to take a dispassionate view of members of said profession who may be subject to disciplinary action. Existing studies and evidence on the effectiveness of public member majorities on boards is sparse and generally limited to case studies of states or occupations. However, in a recent study conducted in 1990 ("Structural Reforms and Licensing Board Performance," by Elizabeth Graddy and Michael Nichol, USC, American Political Quarterly, Vol. 18, No. 3, July 1990, pp. 376-400.), which examined several health-related boards, it was found that the proportion of public members had a positive effect on increasing the number of serious disciplinary actions, and suggested that public members may be effective at improving the disciplinary performance of at least health occupational licensing boards. This suggests that consumer concerns about board domination by the regulated profession may be well-founded.
- A comparison of the board's ratio of public members with that of other California licensing boards, and other state accountancy boards, showed that a 2 to 1 ratio is completely inconsistent with the current trend. However, the board still argues for continuing with the present composition of 12 members because of their extensive workload and the need to have a broader base of expertise with which to address

complex professional issues. It also recommends having 8 CPAs rather than 7 CPAs and one PA, since the PA license was last issued in 1968.

- If there is a concern with the workload of the board, especially if some action is taken concerning its large committee structure, then a more appropriate board composition would be 7 public members and 6 professional members. This would be more reflective of other trade-type consumer boards.

B. Funding and Organization of the Board and Staff

1. The board has spent, on average, about 56 percent of its budget on enforcement activity over the past four years. Other boards have spent, on average, about 66 percent.

2. The organizational breakdown and workload of the board and staff seem to provide the most efficient expenditure of funds. However, a recent reengineering study found a high ratio of support staff to CPA investigative staff, and recommended that investigative staff be more fully utilized [or increased].

- In a recent “reengineering study” conducted by the board, it was found that there are certain tasks and processes used by the staff which cause significant delays in intake, assignment and investigation of cases. Some of these problems seem to be related to the use of the Administrative Committee, and the staff time and effort necessary to support the committee. The study indicated that there was a high ratio of support staff to CPA investigative staff, and recommended that investigative staff be more fully utilized [or increased].

3. The board currently has ten months of budget reserve and is unintentionally out of compliance with the law which requires that the board only maintain three-months of budget reserve. The board is attempting to deal with this problem by reducing fees.

- The board is operating under an inherent statutory conflict pertaining to the authority for cost recovery under the Act, and the mandate to maintain a three-month budget reserve. There are instances in which cost recovery dollars swell the Accountancy Fund significantly above the mandated three-month reserve. Consequently, the board is at times unintentionally out of compliance with state law. As of September 1, 1995, the board’s reserve was equal to approximately ten months of operating expenses. On April 1, 1995, the board lowered its license renewal fee from \$200 to \$175, and its delinquent renewal fee \$100 to \$87.50. As of July 1, 1996, the board will again lower the renewal fee from \$175 to \$100, and the delinquency fee from \$87.50 to \$50.00. The objective of this fee reduction is to lower the board’s reserve and stabilize it at approximately three months of authorized expenditures.

C. Licensing and Application Process

1. *The board's practice of requiring 10/20 semester units is inconsistent with the statutory and regulatory requirement of 45 semester units under Section 5081.1 of the Act. However, there is a 10/20 semester units requirement under the experience requirement in Section 5084 of the Act. The board indicates that it will seek legislation to rectify this inconsistency.*

- During the board's 1992-93 review of the examination and licensing statutory and regulatory provisions, this discrepancy was addressed. In an effort to understand why the board's practice was inconsistent with the statutory language, it was concluded that many years ago educational institutions did not require 45 business units to graduate. Therefore, this requirement presented a significant barrier to entry. Statutory language was developed to make Section 5081.1 consistent with Section 5084 and the board's practice, but the necessary consensus was not achieved to proceed with this statutory change.
- Recognizing that this inconsistency is a continuing problem, the board has undertaken a survey of educational institutions to determine if the existing 45 semester unit requirement currently presents a barrier to entry. The results indicate that educational institutions' requirements for graduation with a business or accounting degree are equal to or greater than the 45 units required by statute. Therefore, the board will be seeking legislation to modify Section 5084 to make it consistent with Section 5081.1.

2. *The experience requirement, as it pertains to the "audit experience" or "attest function," has become a controversial issue and the board has not properly evaluated the need for the continuation of this requirement.*

- Business and Professions Code section 5083 requires CPA candidates to complete a certain number of years of experience under the direct supervision of a CPA licensee. Section 5083(d) expressly requires the Board to "prescribe rules establishing the character and variety of experience necessary to fulfill the experience requirement set forth in this section, including a requirement that each applicant demonstrate to the board satisfactory experience in the attest function as it relates to financial statements. The board satisfied this requirement by adopting section 11.5, Title 15 of the California Code of Regulations. In 1980, however, the board became concerned with the way in which the "audit experience" was interpreted and, as indicated earlier in this report, adopted broad language which said: "Such experience may be fulfilled by a combination of financial audits, reviews, compliance, operational and management audits." The 500 hours was added on the application form as a guideline to meeting this requirement.
- The board is now recommending elimination of any audit experience requirement. It agrees that the attest function has been the traditional hallmark of the accounting profession, and stresses the continuing importance of applicants and licensees being

knowledgeable in this key area. However, the board concluded (“after much thought and discussion”), that knowledge of auditing can be assessed and maintained without a specific audit experience requirement. Indicating that the CPA Examination satisfactorily tests knowledge of auditing standards and practices, and is adequate for establishing minimum standards of competence. In addition, the board claims it has found, through its enforcement experience, that substandard audit work is predominately performed by those who have been in practice for a number of years but who have not kept pace with changes in accounting and auditing standards, and that continuing education required by the board could rectify this problem.

- The board continues to view supervised experience in the practice of public accounting as an important prerequisite for licensure. However, the board believes it is important to keep pace with the global economy and the changing nature of the public accounting profession. Because of the current liability requirement in performing audits, many CPA and PA firms no longer perform them. This means that their employees find it difficult to fulfill the attest experience requirement in a timely manner. Even if an individual is able to fulfill the audit experience requirement, if that individual does not perform audits routinely in a “day in-day out” manner, the audit experience quickly becomes outdated. The board claims that the audit experience requirement is rapidly losing its effectiveness in ensuring competence and, as such, is becoming an unnecessary barrier to entry. It is the board’s view that the experience requirement does not reflect today’s public accounting environment. The board equates this requirement with mandating that a general practitioner physician become proficient in brain surgery or cardiac surgery before they could be licensed by the state.
- There are those currently serving as board members, and CPIL, who are against eliminating the audit experience requirement. CPIL argues that the audit function is the essence of the CPA. It is the one task reserved to CPAs and consumers have no one to rely on other than the CPA for proper preparation of an audit. “The audit function should be the focal point of the board’s licensing, standard-setting, and enforcement function.” CPIL believes the legislature should consider a major change in the licensing function of the board, and license “auditors” only -- that is, those who hold themselves out to the public as being qualified to direct, perform, and sign a certified financial audit. Other accountants who do not perform audits would not need to be licensed.
- Several board members voted against the recommendation to eliminate the audit experience requirement. (The vote for eliminating the requirement was 6-3-2.) One board member has indicated that the driving force behind the recommendation came from those board members who have worked for (or are working for) the big national accounting firms (the “Big Six”). These firms are shifting their emphasis away from audit and tax work to the supposedly more profitable areas of consulting. “It is reasonable to assume that these large firms are having difficulty finding enough work to qualify thousands of computer specialists and financial advisers as CPAs under the current licensure requirements. For individuals specializing in these areas, the CPA

license is nothing more than a highly desirable marketing tool to instill public confidence in their ability. To eliminate the Board's required audit experience to accommodate the self-serving interest of these specialists would defeat the whole purpose of the CPA license and subject California consumers to more of the audit failures receiving wide publicity in recent years. A prime example is the Arthur Anderson audit of 'Lincoln S&L/Charles Keating' fame that cost Californians enormous sums of savings and retirement funds."

- Other members of the profession have expressed a concern that the board would be inclined to make such an important decision without publicizing the issue and soliciting licensee input. "An issue of this importance, one that could affect our ability to serve the public, and, in turn, maintain our professional competence, deserves to be brought to the attention of the entire profession."
- Considering the impact this decision would have on the profession, the Legislature would probably be a more appropriate forum to resolve this issue. This would provide an opportunity for public and professional comment, and for more serious consideration concerning this particular requirement. During this time, the board should conduct a more thorough investigation of the current "public accounting environment" and experience required by firms and partnerships. If indeed the auditing or attest function is used infrequently by the profession, but still is the "hallmark of the accounting profession", then the board might consider special certification for those who primarily perform audit work. This would assure competency in this specialized area.
- There may still be a need for the Qualifications Committee as long as the audit experience requirement exists, but because of its size, expense, and questionable powers, it should be phased out over time so that the board and staff can ultimately assume the responsibilities of this committee. The experience requirement should also be clarified so it can be easily interpreted by staff, and the board should consider whether fewer years of experience would suffice to assure competency. A small advisory committee could still be used to assist staff in examining the qualifications of candidates.

3. The board provides reciprocity for those applicants already licensed in another state but does not recognize international reciprocity.

- Applicants already licensed in another state have temporary practice rights in California for up to 120 days upon receipt of a certification from the licensure state. This certification attests that the applicant's license is in good standing, with completion of certification and a listing evidencing 80 hours of continuing education accumulated in the 24 months immediately preceding the date of application. It should be noted that, although requirements vary widely from state to state, available information indicates that California's requirements are comparable to other states. If an individual is licensed in another state or country, and wishes to obtain a California license, he or she must meet all the requirements necessary to obtain a California

license. However, passage of the “Uniform CPA Examination” in another state generally assures that a license will be issued in California, as long as the experience requirements are met.

- The board does not recognize international reciprocity because requirements for licensure vary widely from country to country. In many countries, requirements are substantially less than those of California or of other states. Accordingly, applicants with public accounting experience obtained outside the United States and its territories must appear before the Qualifications Committee and present work papers which substantiate that the experience meets the board’s requirements. It is mandatory that the work completed in the United States or its territories be available for review at the board’s discretion. Canada is the exception. A Canadian Chartered Accountant in good standing shall be deemed to have met the examination requirements upon successfully passing the “Canadian Chartered Accountant Uniform Certified Public Accountant Qualification Examination of the American Institute of Certified Public Accountants.

D. Continuing Education and Review of Professional Competence

1. *The board has a unique “Continuing Competency Program” which was established in 1989. It includes two primary areas: Continuing Education and a Report Quality Monitoring Program.*

- Continuing Education (CE). Licensees who practice public accounting must complete 80 hours of acceptable CE in the 24-months preceding the license expiration date. Licensees who perform governmental audits must complete 24 of the 80 hours in governmental auditing or related subjects. The “Continuing Education Committee” of the board specifies mandatory criteria for qualification of courses and defines programs which qualify. It does not, however, “pre-approve” courses nor maintain a provider registration program. Professional organizations are the primary source of CE coursework. Larger accounting firms also have developed in-house programs, and numerous other private training and educational companies specialize in providing CE courses. Courses offered by professional associations range from \$20 to \$45 per hour, self-study programs offered through AICPA range from \$10 to \$17 per hour, and other providers costs can range from “no cost” to greater than \$125 per hour. The method for determining the completion of CE is by self-certification upon renewal of the CPA or PA license. However, the board will take a 1% random sampling of license renewals to verify CE. It is estimated that fewer than 5% of those reviewed have a course rejected or have not taken the appropriate course as reported on the renewal application. The licensee is generally given a specified period to correct the deficiency by taking an acceptable program. There are also exceptions or extensions of time for completing CE, for all licensees, for reasons of health, military service, or other good cause. Licensees may renew a license “Without CE,” the result

of which is losing the right to practice public accounting. [The board is in the process of adopting regulatory language which will replace the phrase “Without CE” with “Inactive,” thereby instituting a true inactive license status.]

- Report Quality Monitoring Program (RQM). Staff randomly samples 30 licensees each month based on information submitted with the licensee’s renewal form. Each licensee is required to indicate whether an audit, review, and/or compilation report was issued during the preceding two-year period. They must submit to staff a report of the highest level issued. The RQM “Committee” reviews and evaluates the reports in closed session. They rate reports as satisfactory, acceptable, marginal or substandard. For those considered as “marginal,” CE may be suggested or required, for those considered as “substandard,” CE is required. In both instances, the licensee must submit a financial statement issued after completion of CE. The licensee is given two opportunities to improve work product quality to an acceptable level. The board reports positive improvement by licensees who were required to complete the requisite CE. It seems as if 65-75% of marginal/substandard licensees receive a satisfactory determination upon submission of their second report. Although enforcement is indicated on the “General Improvement Profiles,” it is unclear what enforcement action is taken if a decision is reached that CE would not improve competency, or if CE fails to improve competency.

E. Examination Process

1. *The exam given by the board has a very low passage rate.*

- The average passage rate for the past four years, for those only sitting for one or more parts of the exam, is 33%. However, the average passage rate for those sitting for all sections of the exam is 15%. On average, only about 4000 sit for all sections of the exam, or 26% of the total candidates for the exam. The board, nor the AICPA, maintain statistics which provides a valid comparison of the pass rates of first-time takers to repeat takers of the exam. However, it has been established that an average of three sittings is necessary for candidates to pass all parts of the examination. California’s passage rate since 1979, has been above the national average.

2. *The examination requirement appears to be an artificial barrier to entry into this profession and may be testing more than the minimum standards of competence necessary for an entry-level CPA.*

- An exam which only passes 15% first-time takers, and takes, on average, three sittings to pass all parts, appears to be testing more than the minimum standards of competence for those who would like to enter the accountancy profession. Even the State Bar exam for lawyers, considered as one of the more difficult exams in California, has a 50% passage rate for first-time takers. Also, in a comparison of other boards who provide examinations, this is one of the lowest passage rates for first-time takers.

- The board argues that the more education candidates have, the higher the passage rate. First-time candidates with more than 150 semester hours of credit have a 50% better chance of passing all subjects, and first-time candidates with advanced degrees were 63% more likely to pass. If CPAs were required to have a masters degree, similar to a law degree required before a candidate can take the Bar Exam, a passage rate of 50% could be expected. Most applicants only have a bachelor's degree, and therefore the passage rate is lower. The board also believes the passage rate is affected by the examination's multiple-section scoring methodology, and that there is national consideration being given to a one-score methodology which the board believes would increase significantly the overall pass rate -- because candidates would no longer be able to take individual sections simply for practice without a serious intent of passing. **[No statistics or studies were provided to backup these assertions, the fact that passage of the exam could take up to three years, along with meeting the required experience requirements, still appears to be an artificial barrier to entry into the profession.]**
- The problem may really be in the use of a trade association to draft, grade, set the pass point, and validate the exam. As indicated earlier, the American Institute of Certified Public Accountants, is a professional organization of CPAs which contracts with 54 separate states and jurisdictions to provide and grade the examination. Validation of the exam is also conducted by AICPA. There is no independent outside source (at least none is mentioned) which has performed a psychometric or "task analysis" evaluation on this exam. Most of the analysis seems to be done either "in-house" or with some assistance by the National Association of State Boards. The board is recommending, and to work toward, implementation of a national examination developed and administered by a "non-trade" national organization such as the National Association of State Boards of Accountancy.
- CPIL has recommended that the legislature should consider adding intent language or some other incentive to ensure that this is accomplished. The board argues that legislation could unduly complicate the board's efforts to meet the goal of a new non-trade association examination, but no reasons are given by the board why intent language could "easily override or even derail the efforts to meet these objectives." With intent language, the board would certainly be committed to its own recommendation and would make other states and AICPA aware of the State's concern. The board and AICPA should also be aware that action has already been taken against a board, Landscape Architects, because of an extremely low passage rate. In that instance, the board was required to develop its own examination and no longer use the national examination.

F. Complaint Process

- 1. Almost half of the complaints received by the board are related to unlicensed practice.***

- The board receives approximately 450 licensee-related complaints and an additional 400 complaints related to unlicensed practice each year. Most license-related complaints are filed for reasons of unprofessional conduct, lack of competence or negligence, fraud, “non-jurisdictional” (within scope of board’s regulatory program but not covered by statute, e.g., fee questions), “other” (not described by board). In FY 1993-94, of the total 919 complaints received, about 50% of complaints were from the public, 25% from licensees, 20% from internal sources (?), 3% anonymous, and others from governmental and miscellaneous sources.

2. *In a recent reengineering study conducted by the board, there were significant delays found in the complaint process.*

- Delays occur for several reasons: 1) There are excessive control review points in the process; 2) There is no formal system for case planning or target setting and this results in *ad hoc* and/or inconsistent execution of case investigations; 3) There is a lack of standard, accepted criteria for categorizing and prioritizing cases. The study recommended that the complaint intake and evaluation process be reengineered by developing standard criteria for case evaluation, implementing a formal case planning model, and consolidating review activities.

G. Enforcement Process

1. *It has been argued that the board lacks an aggressive enforcement program and maintains one of the most complex, multi-layered enforcement programs as compared to other occupational licensing agencies.*

- CPIL has documented many of the following problems with the board’s enforcement process:
 - ⇒ its excessive delegation of enforcement decision making authority to private parties (the Administrative Committee), as described earlier;
 - ⇒ a conflict within the board over the proper roles of the Administrative Committee (AC), the board’s Enforcement Chief (a CPA), and the board’s “investigative CPAs” (board-employed investigators who are CPAs) in the enforcement process;
 - ⇒ the board’s use of a two-tiered investigative process -- one for “regular” cases and one for high profile cases denominated as “major cases”;
 - ⇒ the extraordinary number of “stages” and “phases” where cases may be dropped or dismissed ;
 - ⇒ the board’s routine use of expensive outside counsel (instead of the Attorney General’s Office) to handle board disciplinary matters; and

- ⇒ the board's unusual and controversial use of board members in the pre-decision making stage of the enforcement process -- thus requiring the recusal of those board members if and when a proposed decision or stipulated settlement is presented to the board.
- CPIL argues, that probably due to its extraordinary complexity, the board's enforcement program does not yield much in the way of results. In 1993-94, out of 60,000 licensees the board only generated 491 formal complaints against licensees [and filed only 24 accusations]. The board also spends an excessive amount of its enforcement resources and energy policing "unlicensed practice." Almost 25% of the complaints received by the board are from licensees -- presumably complaining about unlicensed practice. In 1993-94, the board received 428 complaints about unlicensed practice, issued 440 cease and desist letters, issued 14 citations, [and referred 14 to the District Attorney]. "CPIL believes the public would be better served if the board would pursue incompetent and dishonest CPAs rather than expending its limited enforcement resources attempting to drive competitors out of business." CPIL recommends the abolition of the Administrative Committee and the appointment of an independent "discipline monitor" (or some other form of independent, objective evaluation by someone with prosecutorial and/or law enforcement expertise) to study the board's enforcement process from intake to final decision. CPIL also suggests structural and administrative reform of the system, and to supervise the implementation of those reforms over a two- to three-year period. [This mechanism, as enacted in SB 1543 (Presley) (Chapter 1114, Statutes of 1986) proved effective in reforming the State Bar's disciplinary system.]
 - The board claims that CPIL is in error about some of the information it provides. First, the board commits minimal resources to unlicensed enforcement. The board specifically devotes only one employee (currently on a half-time basis) to unlicensed cases, which represent an expenditure of approximately \$25,000. Secondly, "jurisdictional inquiries" do not generate complaints. The board tallies and reports complaints separately.

The board goes on to point out, that it has been involved in a "Business Process Reengineering" (BPR) project of the enforcement program over the past summer and fall, and would like time to evaluate and implement the changes recommended by this study. It has also been involved in a self-evaluation prompted by sunset review that has resulted in the board's clarifying the roles of all parties involved in the enforcement process.

- It is interesting to note, that the BPR project reached some of the same conclusions concerning the overly complex and multi-layered aspects of the enforcement program. The following are some of the other findings made, as it relates to each aspect of the board's enforcement program.

Unlicensed Activity

1. The board makes very little use of its “cite and fine” authority against unlicensed practice because of the success it has in issuing “cease and desist” letters. The board has made some use of its “cite and fine” authority against licensees.

- For unlicensed activity, the board issued an average of 380 cease and desist letters per year for the past four years. The board has not used its “cite and fine” authority against unlicensed persons, because compliance (as the board argues) is usually obtained after issuance of a cease and desist order. However, it has used its “cite and fine” authority against licensees. In FY 1994/95, 60 citations were issued, \$68,400 was assessed and \$32,155 was collected.

2. The recent BPR project found excessive follow-up with respect to compliance with unlicensed program decisions.

- To confirm compliance with particular unlicensed program decisions, as many as three follow-up letters may be sent. Up to three phone calls also may be made after the final letter is sent. The frequency of these letters is often unnecessary, and generating them, results in an inefficient expenditure of administrative staff time. The study recommended that the second and third follow-up letter be eliminated and replaced by phone calls.

Investigations

1. There are significant delays in the investigation of cases and investigative and/or administrative staff are not properly utilized.

- For the past four years, an average of 500 investigations were initiated against licensees each year, of these, approximately 400 were closed each year. On average, about 35 investigations were initiated against persons for unlicensed practice each year, and about the same amount closed.
- The board is unique in the way it handles investigations. Once an investigator completes the investigative report, and it is reviewed and approved by a Supervising Investigative CPA, the written report and the file are reviewed by a minimum of two “Administrative Committee” (AC) members, who must concur on a recommendation for closure or further action. The AC can also hold “investigative hearings” to collect facts and information pertaining to a case investigation. There are either “informal” hearings (taken without a court reporter) or “formal” hearings (taken under oath with use of a court reporter). (AC members are non-board licensee volunteers, and there is no indication that they are trained in investigative techniques.) During the FY 1994-95, 318 investigative files were referred to the AC for review. Of those, the AC conducted 71 hearings and referred 36 cases to the Attorney General for preparation of accusations. The time for regular case investigation, review by the AC, and

implementation of the recommended action was approximately nine months on the average, for major cases it was 30 months. [See discussion *infra*, concerning the “Major Case Program.”] The AC review was the primary reason for the increased delays in the investigation of cases.

- As indicated earlier, there has been some criticism concerning the use of the AC. CPIL has argued that the AC is an unlawful delegation of state police power decision making. It also argues that the AC lacks consistency in making decisions, creates unnecessary time lags in processing investigations, is extremely costly, and may have exceeded their authority under the Act by participating in settlement hearings and in making decisions to close cases, issue citations and fines, and impose continuing education. [Section 5022 of the Business and Professions Code states that the AC shall only make “recommendations” and forward its report to the board for action on any matter on which it is authorized to act.]
- The BPR project found that there are certain tasks and processes used by the staff which cause significant delays in intake, assignment and investigation of cases, but there is no indication that the study reviewed time delays or actions taken by the AC. It did seem to indicate, however, that there was a high ratio of support staff to CPA investigative staff (possibly because of the need to provide support to the 17 member AC), and recommended that investigative staff be more fully utilized (or increased).
- The BPR project also discovered other procedures and policies (or lack thereof) which cause significant delays to occur in the assignment and investigation of cases, and cause inconsistencies to occur in the way cases are processed among investigative staff.
- It seems obvious from the comments of CPIL and the BRP project, that the board, and the volunteer CPAs on its Administrative Committee, are too involved in the day-to-day operation of the enforcement program by administrative and investigative staff. The board has created an “elaborate [enforcement] process unlike that of any other DCA board.” The Administrative Committee should be phased out and additional professional investigative staff should be hired to receive, review and manage consumer complaints against licensees.

Disciplinary Action

1. The board maintains a two-tiered disciplinary process. The “Major Case Program” is an extremely complex and costly process.

- The board began a “Major Case Program” in 1987, to investigate and prosecute those licensed accounting firms and individuals who performed grossly negligent accounting and/or auditing services in industries where broad financial harm to consumers and investors was evident (such as audits of failed savings and loan institutions). The board has adopted the practice of contracting with investigative

consultants (experts) to investigate major case matters, and utilizing outside counsel to expedite the investigation and prosecution of these types of cases. The program provides for the investigation of approximately 10 cases each year.

- This program has been criticized as being overly complex, including 3-stages and 14 steps to investigate and prosecute a “major case,” and the frequent use of outside counsel and outside investigators (as opposed to staff investigators and the Attorney General’s Office) can amount to substantial costs for the board. It has been argued that the costs of these particular cases may be influencing the board’s decisions to settle (or not pursue) other disciplinary cases. Also, because staff investigators and the Attorney General’s Office are not used, the board risks the potential of leaks and misuse of confidential information. (A lawsuit was filed against the board in 1994, when Arthur Anderson, a CPA firm against whom the board was proceeding in a disciplinary matter, filed a lawsuit against the board alleging misconduct and contending that the board leaked confidential information to private attorneys involved in a class action against Anderson.)
- The “Major Case Program” needs to be analyzed more closely. It is difficult to determine the successes (or failures) of this program. Although several cases were outlined by the board, there has been no cost-benefit analysis performed on this particular program. Neither did the BPR project provide any evaluation of the activities or processes of this program, nor develop any baseline performance measures.

2. Considering the number of licensees, number of complaints and investigations by the board, there has been little action taken against licensees over the past four years for incompetence or other violations of the licensing act.

- A total of 139 accusations have been filed by the board over the past four years (on average, about 35 filed per year). Of those, 53 resulted in revocation of the license, 12 resulted in a voluntary surrender of the license, 50 ended up with suspension and probation, 53 resulted in probation, and one ended up in an “other” category. (The total of these disciplinary actions is higher because of cases carried over from one year to the next.) A total of 97 accusations filed for the past four years were completed by the Attorney General within one year, 49 were completed in two years, 13 were completed within three years, and 6 went beyond three years.

3. The board does make some use of its restitution authority.

- Restitution to consumers is an optional condition of probation within the board’s “Disciplinary Guidelines” and, where appropriate, may be ordered by the board by either stipulated settlement or proposed decision. From 1990-1994, the board has ordered \$68,600 in restitution to the consumer. (The amount of restitution ordered in FY 1994/95 was unavailable.)

Disciplinary Case Aging Data

1. There have been delays in completing enforcement cases but the board has recently developed “baseline performance measures” to improve its processing of cases.

- Over half of the accusations filed can take from two to four years until the case is completed. The board in July 1995, conducted an internal study to develop “baseline performance measures” for their enforcement program. Some of these baseline performance measures are “red-line” times and goals for processing cases. It is anticipated that this will result, along with implementation of other recommendations made in the BPR project, in enhanced performance in all of the enforcement program areas.

Enforcement Costs

1. The board’s expenditure for all enforcement costs is below the average for other consumer boards.

- The board commits approximately \$5 million annually to its enforcement program for consumer protection. This was 56% of its total expenditures for FY 1994/95 -- much less than other boards which regulate practitioners who can cause severe harm to the public.

2. The board is currently unable to calculate the average costs of investigation and prosecution of cases. However, it is attempting to capture this information in the future.

- The board tracks costs of enforcement actions by recording the actual time and costs incurred for investigative staff, investigative consultants, the Division of Investigations, the Attorney General’s Office, outside counsel, and the Office of Administrative Hearings. All of these costs are monitored to assist in controlling enforcement costs. However, the historical system for capturing cost data does not allow the board to presently calculate the average costs of given types of cases without performing a case-by-case detailed analysis. The board is currently working with DCA to capture these costs. Also, as part of the board’s “baseline performance measures,” four pertain to average costs per case.

3. The board seeks cost recovery pursuant to authority granted under Section 5107 of the Business and Professions Code.

- Recovery of costs for investigation and prosecution of the cases are pursued by the board in a substantial number of its cases.

H. Efforts to Improve the Current Regulatory Process

Operational Improvements

1. The board's administrative and regulatory changes have made some improvements in its operations and increased its ability to operate more in the public interest.

The board points out the following as examples of administrative and regulatory changes which have improved its operations and increased its ability to operate more in the public interest:

- ⇒ BCP proposals to increase staff (especially investigative staff) on the enforcement program.
- ⇒ Completed rule-making actions to establish its Citation and Fine Program.
- ⇒ In 1994, held public hearing on proposed changes to regulations on professional conduct.
- ⇒ Regulations to clarify the experience requirement.
- ⇒ Revised regulations governing the Continuing Education Program for increased clarity and ease of administration.
- ⇒ Held public hearing on creating an "inactive status" for licensees.

Legislative Efforts

1. Legislative efforts by the board have made some improvements in the current regulatory program.

The board points out the following as examples of legislative efforts made to improve the current regulatory program:

- ⇒ Enactment of fee bill to increase its staffing and resources devoted to enforcement.
- ⇒ Enactment of bill to provide cost reimbursement in the enforcement program.
- ⇒ A bill to establish the "Major Case Program."
- ⇒ A bill to revise and reorganize statutes on examination and licensing for increased clarity and consistency.
- ⇒ Created a retired license status.

Recommended Improvements

1. The board's proposed administrative, regulatory and legislative changes address some of the basic problems which are identified in this report. However, some are not reflective of the findings made by the JLSRC.

The following recommendations seem to address some of the basic problems which are addressed in this report. Others, however, are not reflective of the findings of the JLSRC, and have been revised or changed in this report.

- ⇒ Work toward implementation of a national examination developed and administered by a national organization in the future, with the proviso that the national organization be a non-trade association such as the National Association of State Boards of Accountancy.
- ⇒ Redefine the board's experience requirement and eliminate the Qualifications Committee.
- ⇒ Implement a reportable events requirement and a fingerprint requirement to ensure licensees are free of convictions.
- ⇒ Eliminate the Continuing Education Committee.
- ⇒ Implement a two-year research project to identify educational trends and patterns, including course validity and occupational relevancy.
- ⇒ Continue the Report Quality Monitoring Program and define the population for the program as those without peer review or quality review.
- ⇒ Enhance the efficiency of the enforcement program.
- ⇒ Enforcement program should complete its present project of strategic planning through analysis and business process reengineering.
- ⇒ Expand the reporting capabilities of the DCA Enforcement Tracking System.
- ⇒ Develop and implement a plan to create and distribute multimedia materials to educate consumers about services provided by the board.

2.

REVIEW OF NEED FOR STATE LICENSING AND REGULATION OF THE PRACTICE OF PUBLIC ACCOUNTING

<p>ISSUE: Should the State continue with the licensing and regulation of the practice of public accounting, and if not, should some other alternative form of regulation be recommended?</p>
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RECOMMENDATION:

The State should continue with the licensing and regulation of the practice of accounting.

FINDINGS:

1. *There is sufficient evidence that the unregulated practice of public accounting could cause significant public harm.*

- If the current regulatory program were to be discontinued, the harm consumers would suffer would be primarily financial in nature. The Senate Subcommittee on Efficiency and Effectiveness in State Boards and Commissions' April 1994 report found that "there are several reasons why this Board should continue. The first is because of the severe financial harm a consumer could experience, unless this profession is regulated."
- It should be noted that severe financial harm is not an end in itself. Because the practice of public accountancy is so broad, consumers can be affected in a number of ways. For example, clients of incompetent CPAs or PAs could suffer harm from improperly prepared tax returns, from poor investment or retirement planning advice, or because decisions were based on incompetently performed audits. These activities have long-term consequences. Proper retirement and estate planning consultation can be the deciding factor in determining whether a client possesses adequate financial resources for retirement. Consulting advice relative to a litigation matter could make the difference in costly decisions regarding whether to pursue a particular course of action. Audit failures can contribute to substantial losses to creditors and investors.
- Licensees also audit government entities as required by statute such as the Federal Single Audit Act. Incompetent practice in this area can have serious consequences for a large number of Californians. For example, incorrect judgments in the audit of school districts could form the basis for inappropriate decisions about the expenditure of public funds.

- Third party consumers of audited information also can suffer harm from incompetent practitioners. Millions of dollars are invested annually by consumers in publicly traded companies. Licensees are required to issue reports on the financial statements of these companies, which provide information to shareholders and prospective shareholders. Because audits of publicly traded companies and audits for and on behalf of governmental agencies affect so many consumers, this area of practice has the greatest potential for public harm. Incompetent practice in this area can contribute to large consumer losses and social consequences, such as a reduction in the standard of living.
- CPIL agrees that the public needs an occupational licensing agency to regulate CPAs. “Many societal actors (e.g., investors, lenders, government agencies, retirement systems, pension plans) rely on the work and the word of CPAs in making many different kinds of business decisions. The recent crisis which has led to the downfall of the savings and loan industry is illustrative of the public’s need for independent, objective, and competent analyses and audits of financial data.” CPIL also points out that the recent California Supreme Court’s decision in *Bily v. Arthur Young & Company*, 3 Cal. 4th 370 (1992), heightens the need for an effective CPA board. In that case, the Supreme Court essentially immunized CPAs from civil liability for professional negligence to consumers or members of the public other than those with whom they have contracted. In other words, “third party” consumers who purchase stock in a company in reliance on a certified financial audit signed by a CPA have no recourse against that CPA in the courts if that audit has been negligently prepared; only those in “privity of contract” with the CPA (i.e., the audited company) may sue the CPA for professional negligence. As indicated by CPIL, the impact is clear: “The Board of Accountancy is the only remedy for those third-party victims and is the only mechanism which can protect future clients of that CPA.”

2. *There appears to be significant public demand and an expectation by the public for the regulation and licensing of the practice of public accountancy.*

- Evidence of the public’s expectation and demand that the profession be regulated can be discerned from a variety of sources. There is a public expectation that, in its role as auditors of public offerings, the accounting profession be regulated, monitored, and held accountable for any consumer harm that results from negligently performed audits. This expectation is evidenced by the interest in the profession by the 1985 and 1988 congressional hearings chaired by Congressman John Dingell.
- There is also a public expectation that when accounting professionals provide services to clients and have access to confidential client information, regulatory authorities will require practitioners to adhere to professional standards and to a code of ethics and that they will remove dishonest and incompetent practitioners from the marketplace. In addition, there is further general evidence that consumers expect accounting professionals to be licensed: An April 1987, California Poll conducted by Field Research Corporation showed that the public expects persons who offer

accounting services to be licensed by the State. Fifty-five percent of those surveyed believed that a person who advertises as an “accountant” is state licensed.

3. *The current regulatory program appears to provide evidence that severe harm could result if the public accountancy profession was deregulated.*

- The first part to this document provides findings on every aspect of the board’s operation and programs. Based on this evaluation, the board’s enforcement program statistics and case information provided, speak to this issue.

4. *Other mechanisms to protect the public from harm appear to be inadequate if the practice of public accountancy was deregulated.*

- In a deregulated environment, the courts and the marketplace would be the primary means available to the consumers of professional accounting services, to control their exposure to risk of harm. Consumers could seek redress for their injuries in small claims court or through civil lawsuits. Cases of fraud, embezzlement, or theft could be handled by the criminal courts, but the consumer protection aspects may not be considered in these courts. The courts may not remove incompetent practitioners from the marketplace or provide for rehabilitation. Currently, the board’s enforcement program has a number of approaches to discipline and/or to rehabilitate licensees, and remove them from practice if necessary.
- Marketplace factors probably would also be inadequate to protect consumers. This is because most consumers would have difficulty evaluating the competency of the practitioner in the complex, highly technical field of public accounting. It is possible for considerable harm to occur without the consumer’s knowledge. Even if a knowledgeable consumer informed friends and associates about a practitioner’s incompetence, this would not prevent the practitioner from continuing to offer services to other uninformed consumers. In general, marketplace factors would not remove incompetent or dishonest practitioners from professional activity.
- Besides relying on the courts and the marketplace, in a deregulated environment, consumers might rely on the activities of other government agencies or private organizations that affect the accounting profession. The Securities and Exchange Commission (SEC), the General Accounting Office (GAO), and Internal Revenue Service regulated specific activities performed by practitioners. In addition, the Office of the Controller oversees school district audits. However, the activities of these agencies appear inadequate to protect consumers because they have no independent licensing authority and no mechanism for preventing dishonest or incompetent practitioners from continuing to offer professional accounting services. In fact, these agencies rely on boards of accountancy in California and other states to license qualified professionals to perform the activities they oversee. For example, the SEC requires that auditors of publicly traded companies be licensed. The GAO requires that audits of agencies receiving federal funds be performed by licensed accountants. Also, the Federal Single Audit Act mandates that specified audits of

local government be performed by licensees. In addition, state law requires that school district audits and other mandated audits be performed by licensed CPAs or PAs.

5. While a number of other occupations overlap some of the functions performed by licensees of the board, these other occupations are not licensed to perform the full range of public accounting services which includes audits and attestation. In addition, these other occupations are not governed by the professional standards and codes of conduct that characterize licensed accounting professionals.

- CPAs and PAs perform some services that are also rendered by members of other professions. For example, board licensees prepare tax returns, as do Tax Preparers, who are currently regulated by the Tax Preparer Program. Enrolled Agents, who are regulated by the IRS, also prepare tax returns. However, tax preparers and enrolled agents are not subject to the same enforcement and discipline as CPAs and PAs.
- CPAs and PAs also perform some services that are rendered by unregulated occupations such as bookkeepers, financial planners, and management consultants. Bookkeeping services generally maintain books and financial records for clients. The scope of practice for bookkeeping services generally is more narrow than the scope of practice for licensees, although licensees may provide bookkeeping services as well. The scope of practice for financial planning and management consulting services is very broad. Frequently these services include the commissioned sales of securities and other investment products. Conversely, licensees of the board are prohibited from accepting commissions.
- The practice of law is a regulated profession that overlaps with the practice of public accounting. Attorneys, who are regulated by the State Bar, provide estate and tax planning services as do CPAs and PAs. The scope of practice for attorneys, like the scope of practice for CPAs and PAs is very broad. Attorneys are exempt from the provisions of the Accountancy Act for activities considered as part of the practice of law.
- Investment Advisors are required to register with the Department of Corporations. As noted, licensees perform financial planning services and are sometimes required to register as Investment Advisors. The scope of practice for Investment Advisors, who are not also licensed by another agency, is confined to investment planning and related services such as the sale of securities.

6. There are other public agencies which provide some oversight of the services provided by accountants, but none of these agencies has authority to license or discipline practitioners of public accounting.

- Because the practice of public accountancy is very broad, some California CPAs and PAs are licensees or registrants or other state agencies. For example, while all licensees can provide management and financial planning advice as part of the

practice of public accounting, if the CPA or PA works as an investment adviser and advised others as to the value of securities and the advisability of making certain sales and investments, he or she is required to be registered with the Department of Corporations. In addition, individual licensees may hold other professional licenses such as Real Estate Broker or Attorney. None of these other agencies has the authority to license or discipline practitioners of public accounting in California, and the board maintains no records on other licenses held by California CPAs or PAs.

7. *All 54 states and jurisdictions regulate accounting professionals.*

- Forty-three (43) of the states license CPAs, 5 certify CPAs, and 1 registers CPAs. Twenty (20) states license PAs, 1 certifies PAs, and 5 register PAs. States do differ in their educational and experience requirements, exam passing standards, and continuing competency requirements. Boards of accountancy in 52 states and jurisdictions operate in an independent capacity. The Illinois, New York and Utah boards operate in an advisory capacity to a centralized regulatory agency. Thirty-three (33) boards of accountancy have gone through sunset review and none have been deregulated.

8. *There does not appear to be any substantial savings to the consumer (agencies or businesses) if the practice of public accountancy was deregulated, and in fact, deregulation could adversely impact the business climate in California.*

- It is estimated that Californians spent in excess of \$1.42 billion for public accounting services in 1994. While regulation may appear to restrict the number of persons who can practice and cost the consumer more for services provided, there is no evidence that any shortage of accountants exists in California. Competition has seemed to have increased over the years and cost of services provided by CPAs and PAs has declined. For many accounting services, the consumer has a wide choice of different professionals. For example, for tax preparation, the consumer can engage a Tax Preparer, an Enrolled Agent, or a CPA or PA. There are differences in cost, but the cost is related to the practitioner's education, experience, and range of services provided, not to the level of regulation.
- In addition, there may be greater costs to consumers if regulation were to be eliminated. In a deregulated environment, consumers would have to bear the cost of tax penalties resulting from improperly prepared tax returns or the cost of attorney's fees for litigation necessary to obtain redress of grievances.
- The services provided by licensees have a broad impact on the success and growth of California businesses. Businesses, large and small, need licensees for a wide array of services, including services related to the internal operations of businesses, audits of financial statements for access to capital markets, assistance with mergers and acquisitions, and tax planning and preparation. If California were to become the only state that did not license CPAs, it could be seriously disadvantaged compared with other states in attracting new businesses. Also, international business, especially

trade with Pacific Rim nations and our neighboring countries, is likely to play a key role in California's economic growth. The availability of accounting professionals is necessary if California's businesses are to compete effectively in this global marketplace.

9. There does not appear to be any viable alternative to the current regulatory program which would provide the same degree of, or increased consumer protection.

- Evidence cited in a report by the Senate Subcommittee on Efficiency and Effectiveness in State Boards and Commissions demonstrated that other alternatives, such as turning over the regulatory program to DCA, would not provide cost or increased consumer protection benefits. In a comparison of other states, there is also no evidence that a bureau under the control of a centralized agency would provide any better services or protections to the consumer than an independent accountancy board. In addition, if regulation were transferred to DCA, it would be necessary to pay for public accounting expertise that is now available at a minimal cost through board and committee members.
- As the board pointed out, it would also be difficult to adequately regulate a highly technical profession such as public accounting without input on policy decisions from individuals with professional knowledge. In addition, the diversity of experience and perspectives currently provided by licensees and public board members would be lost under this option, and the public forum for policy issues provided under the Bagley-Keene Open Meeting Act would not be available. "Because of the smaller size of the board and its staff, it can be more responsive to the public and is less likely to become a 'faceless bureaucracy.'"